

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

THERESA SIMS

(b) County of Residence of First Listed Plaintiff **DELAWARE**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Sidney L. Gold, Esquire - Sidney L. Gold & Assoc., P.C.
1835 Market St., Ste. 515, Phila, PA 19103 215-569-1999

DEFENDANTS

HARCUM COLLEGE

County of Residence of First Listed Defendant **MONTGOMERY**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)[Click here for: Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

FMLA, ADA, PHRA

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
150,000 IN EXCESS

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

11/16/2021

SIGNATURE OF ATTORNEY OF RECORD

Sidney L. Gold, Esquire

Digitally signed by Sidney L. Gold, Esquire
Date: 2021.11.16 10:32:16 -0500

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 105 S. Pennock Avenue, Upper Darby, PA 19082
Address of Defendant: 750 Montgomery Avenue, Bryn Mawr, PA 19010
Place of Accident, Incident or Transaction: 750 Montgomery Avenue, Bryn Mawr, PA 19010

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/16/2021 /s/ Sidney L. Gold, Esq. 21374
Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
☐ 2. FELA
☐ 3. Jones Act-Personal Injury
☐ 4. Antitrust
☐ 5. Patent
☐ 6. Labor-Management Relations
☒ 7. Civil Rights
☐ 8. Habeas Corpus
☐ 9. Securities Act(s) Cases
☐ 10. Social Security Review Cases
☐ 11. All other Federal Question Cases
(Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
☐ 2. Airplane Personal Injury
☐ 3. Assault, Defamation
☐ 4. Marine Personal Injury
☐ 5. Motor Vehicle Personal Injury
☐ 6. Other Personal Injury (Please specify): _____
☐ 7. Products Liability
☐ 8. Products Liability – Asbestos
☐ 9. All other Diversity Cases
(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, SIDNEY L. GOLD, ESQUIRE, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☒ Relief other than monetary damages is sought.

DATE: 11/16/2021 /s/ Sidney L. Gold, Esq. 21374
Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

THERESA SIMS	:	CIVIL ACTION
	:	
v.	:	
HARCUM COLLEGE	:	NO.
	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (☒)

<u>11/16/2021</u>	<u>/s/ Sidney L. Gold, Esq.</u>	<u>PLAINTIFF</u>
Date	Attorney-at-law	Attorney for
<u>(215) 569-1999</u>	<u>(215) 569-3870</u>	<u>sgold@discrimlaw.net</u>
Telephone	FAX Number	E-Mail Address

**Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track**

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THERESA SIMS,

Plaintiff,

v.

HARCUM COLLEGE,

Defendant.

:
:
:
:
:
:
:
:
:
:
:

CIVIL ACTION NO:

JURY TRIAL DEMANDED

COMPLAINT AND JURY DEMAND

I. PRELIMINARY STATEMENT:

1. This is an action for an award of damages, declaratory and injunctive relief, attorneys' fees, and other relief on behalf of the Plaintiff, Theresa Sims ("Plaintiff Sims"), a former employee of the Defendant, Harcum College ("Defendant"), who has been harmed by the Defendant's discriminatory and unlawful employment practices.

2. This action arises under the Family and Medical Leave Act ("FMLA"), 29 U.S.C. § 2612, et. seq., the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101, et. seq., and the Pennsylvania Human Relations Act ("PHRA"), 43 P.S. § 951, et. seq.

II. JURISDICTION AND VENUE:

3. The original jurisdiction of this Court is invoked, and venue is proper in this judicial district, pursuant to Title 28 U.S.C. §§1331 and 1391, as Plaintiffs Sims' claims are substantively based on both the FMLA and the ADA, and a substantial part of the events giving rise to Plaintiff Sims' claims occurred within this district.

4. The supplemental jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1367 to consider Plaintiff Sims' claims arising under the PHRA.

5. All conditions precedent to the institution of this suit have been fulfilled and Plaintiff Sims has satisfied all jurisdictional prerequisites to the maintenance of this action. On August 23, 2021, the United States Equal Employment Opportunity Commission issued a Notice of Right to Sue and this action has been filed within ninety (90) days of receipt of said notice.

III. PARTIES:

6. Plaintiff, Theresa Sims ("Plaintiff Sims"), is a sixty-three (63) year old female citizen of the Commonwealth of Pennsylvania, residing therein at 105 S. Pennock Avenue, Upper Darby, PA 19082.

7. Defendant, Harcum College ("Defendant"), was and is now an employer maintaining a place of business at 750 Montgomery Avenue, Bryn Mawr, PA 19010.

8. At all times relevant hereto, the Defendant was acting through its agents, servants, and employees, who were acting within the scope of their authority, course of employment, and under the direct control of the Defendant.

9. At all times material herein, the Defendant has been a "person" and "employer" as defined under the FMLA, the ADA, and the PHRA, and accordingly is subject to the provisions of each said Act.

IV. STATEMENT OF CLAIMS

10. Plaintiff Sims, a sixty-two (62) year old female, was employed by The Defendant from on or about March 18, 2003 until on or about December 6, 2019, the date of her unlawful termination.

11. Throughout her tenure of employment, Plaintiff Sims held the position of Administrative Assistant, Dental Programs Clinic Manager and all times relevant hereto maintained a satisfactory job performance rating in said capacity.

12. By way of background, in or about June of 2016, Plaintiff Sims was diagnosed with Muir-Torre with Lynch Syndrome, a rare hereditary cancer syndrome that makes Plaintiff Sims prone to developing certain types of cancers. Said medical condition constitutes a disability withing the meaning of the Americans with Disabilities Act (“ADA”) and the Pennsylvania Human Relations Act (“PHRA”), in that it substantially impairs one or more of Plaintiff Sims’ major life activities, including, but not limited to, normal cell growth.

13. At all times material herein, The Defendant was aware of Plaintiff Sims’ disability and perceived her to be disabled.

14. In or about June of 2019, as a result of unusual symptoms, Plaintiff Sims’ physician ordered her to undergo a CT scan. Plaintiff Sims’ physician ordered additional testing, and Plaintiff underwent a PET scan on or about July 24, 2019.

15. On or about August 19, 2019, Plaintiff Sims was diagnosed with Transitional Cell Carcinoma. Said medical condition constitutes a disability within the meaning of the Americans with Disabilities Act (“ADA”) and the Pennsylvania Human Relations Act (“PHRA”) in that it substantially impairs one or more of Plaintiff Sims’ major life activities, including, but not limited to, normal cell growth.

16. In connection thereto, Plaintiff Sims’ physician recommended that Plaintiff Sims undergo surgery to remove her right kidney and ureter. Plaintiff Sims additionally required a foley catheter for ten (10) days following her surgery.

17. Plaintiff Sims promptly notified her supervisor, Jean Byrnes-Ziegler (“Byrnes-Ziegler”), Program Director of Dental Hygiene, of her diagnosis and informed Byrnes-Ziegler that she was scheduled to undergo surgery on or about September 3, 2019.

18. Thereafter, on or about August 29, 2019, Plaintiff Sims sent an email to Kimberlynn Brown-Trent (“Brown-Trent”), Human Resources, notifying her that she was scheduled to undergo surgery on or about September 3, 2019 and requested a medical leave of absence pursuant to the Family and Medical Leave Act (“FMLA”) as a reasonable accommodation for her disability. The Defendant approved Plaintiff Sims’ request for leave, and Plaintiff Sims was initially scheduled to return to work on or about October 15, 2019.

19. On or about September 16, 2019, Plaintiff Sims attended a post-op appointment with her physician. During the said appointment, Plaintiff Sims’ physician informed her that she would be required to undergo chemotherapy treatment.

20. On or about October 1, 2019, Plaintiff Sims attended an appointment with her oncologist who confirmed that she would have to undergo four (4) cycles of chemotherapy treatment over a twelve-week span. On or about October 3, 2019, Plaintiff Sims notified Brown-Trent that she now required chemotherapy and would keep The Defendant updated. Plaintiff Sims commenced chemotherapy on or about October 11, 2019.

21. Due to side-effects as a result of chemotherapy, on or about October 14, 2019, Plaintiff Sims sent an email to Brown-Trent advising her that she would not be able return to work as scheduled on or about October 15, 2019 and requested an extension of her medical leave of absence as a reasonable accommodation for her disability.

22. On or about October 30, 2019, Plaintiff Sims sent an email to Brown-Trent informing her that she would have to remain on a medical leave of absence until her

chemotherapy treatments were completed. Plaintiff Sims further inquired how much remaining time she had for FMLA leave.

23. On or about November 13, 2019, Plaintiff Sims sent a follow-up email to Brown-Trent, as she had failed to respond to Plaintiff Sims' October 30th email. That day, Brown-Trent informed Plaintiff Sims that she would fully exhaust her FMLA leave on or about November 25, 2019.

24. On or about November 19, 2019, Plaintiff Sims telephoned Brown-Trent to request an extension of her medical leave of absence until January 2, 2020 as a reasonable accommodation for her disability. In connection thereto, on said date, Plaintiff Sims submitted a note from her physician stating that she would be able to return to work on or about January 2, 2020 when her chemotherapy was completed.

25. The Defendant failed to acknowledge or respond to Plaintiff Sims' request for an extension of her medical leave of absence, thereby failing to engage in the interactive process.

26. As a result thereof, on or about November 26, 2019, Plaintiff Sims sent an email to Brown-Trent inquiring as to the status of her request for a reasonable accommodation for her disability. Brown-Trent advised her that she was looking into long-term disability options for Plaintiff Sims.

27. On or about December 2, 2019, Hunt Bartine ("Bartine"), Executive Director of Human Resources, sent Plaintiff Sims an email requesting a telephone conference.

28. The next day, on or about December 3, 2019, Bartine telephoned Plaintiff Sims. During the said telephone call, Plaintiff Sims asked Bartine if Brown-Trent had informed him that she had requested an extension of her medical leave of absence as a reasonable accommodation for her disability until on or about January 2, 2020. Bartine told Plaintiff Sims

that Brown-Trent had not informed him of her request and that he thought she was not returning to work. Plaintiff Sims emphatically stated that she planned to return to work, but required a brief extension of her medical leave until January 2nd.

29. On or about December 6, 2019, The Defendant abruptly terminated Plaintiff Sims' employment. In a blatant act of discrimination, The Defendant terminated Plaintiff Sims' employment due to Plaintiff Sims' "inability to return to active employment and resultant job abandonment."

30. On or about December 9, 2019, Plaintiff Sims received a termination letter via email. Upon receiving the same, Plaintiff Sims promptly called Bartine to register a complaint of disability discrimination regarding her termination. Further, Plaintiff Sims asked if there was anything she could do to return to her employment on January 2, 2020 as her physician had recommended. In further discrimination and retaliation, Bartine responded that Julia Ingersoll ("Ingersoll"), Executive Vice President, "thought it was best" that Plaintiff Sims be terminated.

31. Plaintiff Sims believes and avers that no legitimate business reason existed for her termination, and that The Defendant terminated her employment based on her actual and/or perceived disability and/or record of impairment (Muir-Torre with Lynch Syndrome; Transitional Cell Carcinoma) and/or in retaliation for requesting a reasonable accommodation for her disability and/or for exercising her rights pursuant to the Family and Medical Leave Act.

COUNT I
(Violation of the FMLA – Retaliation)
Plaintiff Sims vs. the Defendant

32. Plaintiff Sims incorporates by reference paragraphs 1 through 31 of this Complaint as though fully set forth at length herein.

33. The actions of the Defendant, through its agents, servants, and employees, in retaliating against Plaintiff Sims for exercising her statutory rights pursuant to the FMLA, constitute a violation of the FMLA.

34. As a direct result of the aforesaid unlawful employment practices engaged in by the Defendant in violation of the FMLA, Plaintiff Sims has sustained permanent and irreparable harm, which caused her to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

35. By reason of the aforesaid unlawful employment practices engaged in by the Defendant in violation of the FMLA, Plaintiff Sims is entitled to liquidated damages, which she hereby claims of the Defendant.

COUNT II
**(Violations of the ADA – Disability Discrimination, Failure to Accommodate,
and Failure to Engage in the Interactive Process)**
Plaintiff Sims vs. the Defendant

36. Plaintiff Sims incorporates by reference paragraphs 1 through 35 of this Complaint as though fully set forth at length herein.

37. The actions of the Defendant, through its agents, servants, and employees, in subjecting Plaintiff Sims to unlawful discrimination on the basis of her actual and/or perceived disabilities and/or record of impairments (Muir-Torre with Lynch Syndrome; Transitional Cell Carcinoma), failing to accommodate Plaintiff Sims, and failing to engage in the interactive process with Plaintiff Sims, constitute violations of the ADA.

38. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADA, Plaintiff Sims sustained permanent and irreparable harm, which caused her to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

39. As a further direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADA, Plaintiff Sims suffered severe emotional distress, embarrassment, humiliation, and loss of self-esteem.

COUNT III
(Violation of the ADA – Retaliation)
Plaintiff Sims vs. the Defendant

40. Plaintiff Sims incorporates by reference paragraphs 1 through 39 of this Complaint as though fully set forth at length herein.

41. The actions of the Defendant, through its agents, servants, and employees, in retaliating against Plaintiff Sims for requesting a reasonable accommodation, constitute a violation of the ADA.

42. As a direct result of the aforesaid unlawful retaliatory employment practices engaged in by the Defendant in violation of the ADA, Plaintiff Sims sustained permanent and irreparable harm, which caused her to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

43. As a further direct result of the aforesaid unlawful retaliatory employment practices engaged in by the Defendant in violation of the ADA, Plaintiff Sims suffered severe emotional distress, embarrassment, humiliation, and loss of self-esteem.

COUNT IV
**(Violations of the PHRA – Disability Discrimination, Failure to Accommodate,
And Failure to Engage in the Interactive Process)**
Plaintiff Sims vs. the Defendant

44. Plaintiff Sims incorporates by reference paragraphs 1 through 43 of this Complaint as though fully set forth at length herein.

45. The actions of the Defendant, through its agents, servants, and employees, in subjecting Plaintiff Sims to unlawful discrimination on the basis of her actual and/or perceived

disabilities and/or record of impairments (Muir-Torre with Lynch Syndrome; Transitional Cell Carcinoma), failing to accommodate Plaintiff Sims, and failing to engage in the interactive process with Plaintiff Sims, constitute violations of the PHRA.

46. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Sims sustained permanent and irreparable harm, which caused her to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

47. As a further direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendants in violation of the PHRA, Plaintiff Sims suffered severe emotional distress, embarrassment, humiliation, and loss of self-esteem.

COUNT V
(Violation of the PHRA – Retaliation)
Plaintiff Sims vs. the Defendant

48. Plaintiff Sims incorporates by reference paragraphs 1 through 47 of this Complaint as though fully set forth at length herein.

49. The actions of the Defendant, through its agents, servants, and employees, in retaliating against Plaintiff Sims for requesting a reasonable accommodation, constitute a violation of the PHRA.

50. As a direct result of the aforesaid unlawful retaliatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Sims sustained permanent and irreparable harm, which caused her to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

51. As a further direct result of the aforesaid unlawful retaliatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Sims suffered severe emotional distress, embarrassment, humiliation, and loss of self-esteem.

PRAYER FOR RELIEF

52. Plaintiff Sims incorporates by reference paragraphs 1 through 51 of this Complaint as though fully set forth at length herein.

WHEREFORE, Plaintiff Sims respectfully requests that this Honorable Court enter judgment in her favor and against the Defendant and Order the following relief:

- a. A declaratory judgment that the Defendant has violated Plaintiff Sims' rights pursuant to the aforesaid causes of action;
- b. Defendant compensate Plaintiff Sims for the wages and other benefits and emoluments of employment lost, because of its unlawful conduct;
- c. Defendant compensate Plaintiff Sims with an award of front pay, if appropriate;
- d. Defendant pay to Plaintiff Sims liquidated damages, as allowable under the FMLA.
- e. Defendant pay to Plaintiff Sims compensatory damages for future pecuniary losses, pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses, as allowable by law.
- f. Defendant pay to Plaintiff Sims punitive damages under any applicable law, pre-judgment interest and post-judgment interest, costs of suit, attorney's fees, and expert witness fees, as allowable by law;
- g. Defendant pay to Plaintiff Sims such further and additional relief as may be just and proper, or that the interests of justice may require.

JURY DEMAND

Plaintiff Sims demands a trial by jury.

SIDNEY L. GOLD & ASSOCIATES, P.C.

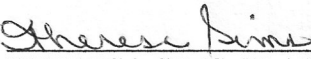
By: /s/Sidney L. Gold, Esquire
SIDNEY L. GOLD, ESQUIRE
I.D. NO.: 21374
1835 Market Street, Suite 515
Philadelphia, PA 19103
(215) 569-1999
Attorneys for Plaintiff

Dated: November 16, 2021

VERIFICATION

I hereby verify that the statements contained in this **Complaint** are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of Title 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

DATE: 11-11-21


THERESA SIMS, PLAINTIFF